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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/692,428	10/22/2003	Ami Schieber	50325-0808	8384
29989 7590 05/30/2007 HICKMAN PALERMO TRUONG & BECKER, LLP 2055 GATEWAY PLACE SUITE 550 SAN JOSE, CA 95110			EXAMINER LAI, MICHAEL C	
			ART UNIT 2109	PAPER NUMBER
			MAIL DATE 05/30/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/692,428

Applicant(s)

SCHIEBER ET AL.

Examiner

Michael C. Lai

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2143

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 22 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-35 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 12 Mar 2004.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Priority*

This application has no priority claim made. The filing date is 10/22/2003.

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 4-12, 16-35 rejected under 35 U.S.C. 102(b) as being anticipated by Wolff (US 6,185,601).

3. Regarding claims 1 and 33-35, Wolff discloses a method (column 11 lines 24-41) comprising the steps of: monitoring the server's performance; detecting when the server's performance is worse than a failover threshold; and sending a message to one or more clients indicating that one or more clients should failover to an alternate server.

4. Regarding claims 4-7, Wolff inherently discloses measuring one or more parameters from the group consisting of server related parameters, system related parameters, and availability of services on the server because these parameters are important factors in terms of server performance.

5. Regarding claims 8 and 9, Wolff further discloses the step of determining the one or more clients to which to send the message based on a predefined list of clients (column 23 line 61 – column 25 line 67).

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6. Regarding claim 10, Wolff inherently discloses the step of determining the one or more clients to which to send the message based on network topology because this is one of the most efficient ways to send messages.

7. Regarding claim 11, Wolff further discloses the step of determining the alternate server based on a list configured on each of said one or more clients (column 23 line 61 – column 25 line 67).

8. Regarding claim 12, Wolff further discloses the message that is sent to said one or more clients comprises a list or more alternate servers to which said one or more clients can failover (column 23 line 61 – column 25 line 67).

9. Regarding claims 16-32, Wolff inherently discloses the step of connecting with a second client because there is more than one client associated with the server.

***Claim Rejections - 35 USC § 103***

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 2-3 rejected under 35 U.S.C. 103(a) as being unpatentable over Wolff

12. Regarding claim 2, Wolff discloses all the subject matter as discussed in claim 1 above, except for AA servers and clients. Official Notice is taken for AAA, which are the three primary services that provide a network security and a record of user activity by identifying who the user is, what the user can access, and what services and resources the user is using when they make a connection with a server. Therefore it would have

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been obvious to one of ordinary skill in the art to incorporate AAA into the system of Wolff at the time of invention such that AAA servers/clients can benefit from dynamic load balancing.

13. Regarding claim 3, Wolff discloses all the subject matter as discussed in claim 1 above, except for the ICMP Echo message. Official Notice is taken for the ICMP Echo message, which is among the older methods used to scan a network. Therefore it would have been obvious to one of ordinary skill in the art to incorporate the ICMP Echo message into the system of Wolff.

14. Claims 13-15 rejected under 35 U.S.C. 103(a) as being unpatentable over Wolff in view of Lindeman et al (US 2003/0009698 A1, hereinafter Lindeman).

15. Regarding claims 13-15, Wolff doesn't disclose the use of hashed values for checking authentication/authority purposes. However, Lindeman discloses creating a hash value based on a recipient address and an originator address (claim 3). Lindeman further discloses a one-way hash algorithm with a shared secret as a key and a combination of source and destination addresses (para 0032). It would have been obvious to one of ordinary skill in the art to incorporate the teaching of Lindeman into the system of Wolff at the time of the invention.

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**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael C. Lai whose telephone number is (571) 270-3236. The examiner can normally be reached on M-F 7:30 - 5:00 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marvin Lateef can be reached on (571) 272-5026. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Michael C. Lai  
14MAY2007

  
MARVIN M. LATEEF  
SUPERVISORY PATENT EXAMINER